



**U.S. Department of
Transportation**

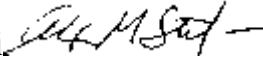
Office of the Secretary
Of Transportation

Office of Inspector General

Memorandum

Subject: **ACTION:** Report on Audit of the Compensation
Program for Expansion of Dallas/Fort Worth
International Airport, FAA, AV-1999-048

Date:

From: Alexis M. Stefani 
Deputy Assistant Inspector General for Aviation
To: Associate Administrator for Airports

Reply to
Attn of: JA-10

This report presents the results of our audit of the compensation program for the expansion of Dallas/Fort Worth International Airport (DFW). The objective of our audit was to determine whether land for the expansion of the Dallas/Fort Worth International Airport was being acquired in accordance with Federal laws and regulations.

Our draft report was issued to the Manager of the Airports Division, Southwest Region, and contained recommendations specific to the airport development compensation program at DFW (which is now nearly complete). However, the issues we identified at DFW could apply to other FAA land acquisition and noise mitigation programs. Since 1996, FAA has issued grants totaling nearly \$500 million for land acquisition and noise mitigation and estimates it will need an additional \$1.6 billion for noise mitigation alone through 2004. Accordingly, we have revised our report and are making recommendations addressing agencywide issues concerning unnecessary acquisition of easements and property, inappropriate appraisal methods, and excessive replacement housing payments.

Background

The Airport and Airway Development Act of 1970, as amended, provides for funding of land acquisition for airport development, approach protection, and noise compatibility programs. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, establishes policies for the fair and equitable treatment of individuals displaced as a result of Federally assisted land acquisition programs. In accordance with

these laws, Title 49, Code of Federal Regulations, Part 24, promulgates rules to ensure that (1) property owners and displaced tenants are treated fairly and consistently, and (2) agencies implement the regulations in an efficient and cost effective manner.

On April 6, 1992, FAA issued a Record of Decision authorizing Federal assistance for construction of a new runway at DFW. In that Record, FAA also set forth mitigation measures for compensating individuals and businesses impacted by the project. These measures included the (1) purchase and removal of residential and commercial structures, (2) purchase of easements for air rights above single-family dwellings, and (3) soundproofing of multi-family dwellings.

Results-in-Brief

We found that FAA ensured DFW's airport development compensation program provided for the fair and equitable treatment of individuals displaced by the Federally assisted project. For example, FAA ensured that DFW used separate companies to appraise and review appraisals of land acquisitions. However, FAA did not provide adequate oversight and direction to ensure that all DFW acquisitions were carried out as efficiently and cost effectively as possible.

Specifically, we identified approximately \$6.8 million (Federal share) in FAA-approved DFW transactions that were not an efficient use of Federal funds. For example, we found that FAA approved DFW's acquisition of easements over 66 homes that were ineligible for Federal assistance because they were built after the airport issued public notice of its noise exposure areas.

FAA also allowed DFW to acquire easements over homes that were outside the noise mitigation area and allowed DFW to use inappropriate appraisal methods for valuing lots with surplus land and determining replacement-housing costs. In addition, we found that FAA approved the acquisition of a 64-unit apartment complex that, based on FAA policy, should have been soundproofed rather than acquired and removed.

We are not recommending recovery of funds from DFW since FAA approved the expenditures along with the airport's compensation program. However, because FAA has issued nearly \$500 million in grants for land acquisition and noise mitigation since 1996 and estimates it will require an additional \$1.6 billion for noise mitigation alone (through 2004), we are

recommending that FAA implement new or strengthen existing agencywide procedures for future airport development compensation programs. These changes should include, at a minimum, procedures addressing unnecessary acquisition of easements and property, inappropriate property appraisal methods, and excessive replacement housing payments.

Scope and Methodology

DFW began acquiring property in 1993 and expects to complete acquisitions during Fiscal Year (FY) 1999. Through November 18, 1997, DFW had purchased 493 single family dwellings and 2 apartment complexes and incurred about \$128 million in land acquisition and related costs. Of this amount, FAA reimbursed the airport about \$70 million. We statistically selected and reviewed 193 of 384 residential parcel acquisitions. We also judgmentally reviewed 6 housing acquisitions (4 single-family dwellings and 2 apartment complexes), 248 of 1,194 aviation easements, 76 replacement housing payments, and relocation costs paid to 11 of 450 tenants in the 2 apartment complexes. The items sampled represented approximately \$29 million in costs incurred for acquisitions and approximately \$10 million in costs incurred for aviation easements. We conducted the audit in accordance with Government Auditing Standards as prescribed by the Comptroller General of the United States.

Analysis and Recommendations

We found FAA approved unnecessary Federal expenditures associated with the airport development compensation program at DFW. These included (1) acquiring easements that were not required by Federal law, (2) paying inflated prices for lots with surplus land, (3) making excessive replacement housing payments, and (4) acquiring an apartment complex instead of paying to soundproof it.

Unnecessary Acquisition of Easements. FAA allowed DFW to acquire easements over new houses built after cut-off dates established by Public Law, and for houses outside noise mitigation areas.

Easements Acquired After Cut-Off Dates. Public Law 96-193, Aviation Safety and Noise Abatement Act of 1979 prohibits payment of damages (including aviation easements) to individuals who acquire affected property after a cut-off date based on public knowledge of anticipated noise exposure areas. Section 107 of the Act states:

“No person who acquires property or an interest . . . in an area surrounding an airport with respect to which a noise exposure map has been submitted . . . shall be entitled to recover damages with respect to the noise attributable to such airport if such person had actual or constructive knowledge of the existence of such noise exposure map . . . constructive knowledge shall be imputed, at a minimum, to any person who acquires property or an interest therein in an area surrounding an airport . . . if prior to the date of such acquisition, notice of the existence of a noise exposure map for such area was published at least three times in a newspaper of general circulation in the county in which such property is located. . . .”

For the DFW project, requirements of Public Law 96-193 were met as of August 1990, by which time DFW had published three notices in seven local newspapers. However, we found DFW compensated property owners for homes built within the noise exposure areas after the published notice.

For example, according to studies made by DFW, one neighborhood in 1989 contained 278 single-family homes and various vacant lots. As of April 1997, the neighborhood had grown to 511 houses with 10 lots still vacant. We reviewed acquisition records for 248 of the 511 houses and found that 66 (27 percent) were built between 1991 and 1996, after the cut-off date. However, we also found that DFW had acquired easements over 64 of the houses and was in the process of acquiring the remaining 2 easements.

DFW acquired easements for houses built after 1990, in part, because FAA officials used the Environmental Impact Statement report, not Public Law 96-193, to establish the easement eligibility date for new construction. FAA officials told us that requirements of Public Law 96-193 did not apply to DFW and that they used criteria established in FAA Order 5050.4A (Airport Environmental Handbook) instead. However, we could find no criteria in FAA Order 5050.4A that would allow FAA to supersede requirements of Public Law 96-193 and FAA could provide no other substantiation for their position. Furthermore, our Senior Council reviewed this issue and concluded that publication of the noise exposure map in August 1990 clearly established the cut-off date for claims at DFW and is self-executing pursuant to Federal law.

We estimate FAA could have saved at least \$1.1 million by limiting participation in the 66 lots to the Federal share of easement costs for vacant lots rather than lots with houses. Accordingly, for future airport development compensation programs, we recommend that FAA establish

and adhere to specific cut-off dates in accordance with requirements of Public Law 96-193.

Easements Acquired Outside Noise Mitigation Areas. FAA also allowed DFW to acquire easements for dwellings that were outside the noise mitigation area. For example, we found FAA approved the purchase of 85 aviation easements in one neighborhood with noise levels rated less than 65 decibels (the minimum noise level required to qualify for Federal noise mitigation programs).

FAA Order 5100.38A permits expanding acquisitions “. . . to include a few otherwise ineligible parcels contiguous to the project area, if necessary, to achieve equity in the neighborhood.” However, we found FAA approved easement acquisitions over the entire neighborhood without requiring DFW to evaluate the additional costs or justify the rationale for the additional easements. We estimate the Federal share of the additional easements was approximately \$2.2 million. For future airport development compensation programs, we recommend that FAA require airport sponsors to complete cost justifications for any decisions to acquire aviation easements that do not meet Federal requirements.

Overstated Appraised Values of Lots with Surplus Land. FAA did not require DFW to follow accepted appraisal standards when valuing lots with surplus land. As a result, the costs of lots with surplus land were inflated. According to appraisal standards for excess and surplus land¹

“Some parcels of land are too large for their principal highest and best use. When the additional land does not support the existing improvement but may not be separated from the property and sold off, it has no independent highest and best use and represents surplus land . . . An appraiser should clearly identify any . . . surplus land and, if appropriate, indicate its unit value separately . . .”

We found DFW appraisers appropriately recognized the amount of surplus land but did not value surplus land separately. For example, in one lot appraisal, the DFW appraiser used \$2.00 per square foot to compute a \$57,324 value for a 28,662 square foot lot that included over 18,000 square feet of surplus land.

¹ The Appraisal of Real Estate, 11th Edition, pages 317-318, Appraisal Institute, Chicago 1996.

We statistically selected 193 of the 384 residential parcels acquired by DFW and found that 169 of the parcels contained surplus land. Of the 169 parcels, we identified 85 parcels that contained surplus land ranging from 963 to 33,000 square feet². In each case, we found DFW appraisers appropriately recognized the amount of surplus land but did not compute a different square footage rate for the surplus land. We estimate that this appraisal method inflated Federal participation in the acquisition costs of the residential parcels between \$1.9 and \$2.6 million. Accordingly, we recommend in future airport development compensation programs that FAA require airport sponsors to use separate square footage rates when appraising surplus land.

Excessive Replacement Housing Payments. FAA approved a DFW compensation policy that resulted in paying excessive replacement housing costs to owners of large residential lots. FAA Order 5100.37A, Land Acquisition and Relocation Assistance for Airport Projects, provides guidance for computing replacement housing payments and authorizes additional compensation to homeowners for differences between the acquired and comparable replacement property (e.g. price, major features (pools, spas, outbuildings), and lot size). For acquired lots larger than typical residential size, the order states:

“ . . . exact one to one correspondence between lot sizes is not necessary as it is likely that the market regards and values a range of lot sizes for single family use as relatively equal, i.e., 3-5 [acres], 7-15 [acres], over 20 [acres].”

We also spoke with an FAA expert in land acquisitions, who told us that additional compensation for replacement housing is not necessary unless the lot variance exceeds one half acre (21,780 square feet).

As of June 30, 1997, DFW had made replacement-housing payments totaling approximately \$2 million to 134 residents of single-family dwellings. We judgmentally selected 76 of these payments and found that 40 included compensation for oversized lots. However, the additional compensation was for variances in lot sizes less than one half acre (ranging only from 3,597 to 19,550 square feet). We estimate the Federal cost of this additional compensation (which did not comply with requirements of FAA Order 5100.37A) was at least \$572,000. We recommend in future land acquisition programs that FAA ensure that airport sponsors comply with FAA Order

² Based on an average lot size of 10,000 square feet.

5100.37A guidance on compensating owners for differences in lot size when computing replacement housing payments.

Unnecessary Acquisition of an Apartment Complex. FAA approved the acquisition of a 64-unit apartment complex that, based on FAA policy, should have been soundproofed rather than acquired. In the 1991 Environmental Impact Statement (EIS) report for DFW's new runway, FAA authorized acquisition of single-family and multi-family dwellings in the runway protection zone and in zones with a noise level rating of 75 decibels or higher. In zones with a lower noise level rating, FAA policy specified "... multi-family apartment dwellings (4-plex structures and larger) will be soundproofed . . ." However, DFW chose to acquire a 64-unit apartment complex without obtaining information to support the decision that soundproofing was not possible or cost effective. In addition, DFW considered factors in its decision that were not in accordance with FAA policy such as the construction quality of the complex.

According to the FAA project manager, the DFW acquisition was approved because the EIS (used by DFW to support the decision to acquire rather than soundproof the complex) contained conflicting and often erroneous information about the complex. For example, the list of dwellings and approved mitigation methods showed the complex as "Four Plex Dwellings" that should be acquired. We estimate that FAA could have saved approximately \$1 million in Federal funds by soundproofing the complex instead of acquiring it. Accordingly, we recommend for future land acquisitions that FAA independently verify the accuracy of EIS information provided by airport sponsors.

Recommendations

We are not recommending recovery of funds from DFW since FAA approved the expenditures along with the airport's compensation program. However, we are recommending that FAA implement new or strengthen existing agencywide procedures for future airport development compensation programs addressing the unnecessary acquisition of easements and property, inappropriate property appraisal methods, and excessive replacement housing payments. We recommend that FAA:

1. establish and adhere to specific cut-off dates for Federal participation in land acquisitions that are in accordance with requirements of Public Law 96-193;

2. require airport sponsors to complete cost justifications for any decisions to acquire aviation easements that do not meet Federal requirements;
3. require airport sponsors to use separate square footage rates for appraising surplus land;
4. ensure that sponsors comply with FAA Order 5100.37A policies on compensating owners for differences in lot size when computing replacement housing payments; and
5. independently verify the accuracy of EIS information provided by airport sponsors.

Actions Required

In accordance with Department of Transportation Order 8000.1C, we would appreciate receiving your written comments in 30 days. If you concur with our findings and recommendations, please indicate for each recommendation the specific action taken or planned and the target dates for completion. If you do not concur, please provide your rationale. Furthermore, you may provide alternative courses of action that you believe would resolve the issues presented in this report.

We appreciate the cooperation and assistance provided by you and your staff during the audit. If you have any questions or need further information, please contact me at (202)-366-0500 or David Dobbs, Program Director for Aviation Operations Issues, at (202)-366-1401.